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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Nataliya Vladimirovna BEDA et al

Serial No.: 10/069971

Box DAC

Filed: March 11, 2002

For: A METHOD FOR MODULATING METABOLISM OF
NITROGEN OXIDES, A COMPOSITION FOR REALIZING
THEREOF (VARIANTS) AND A METHOD FOR
EFFECTING ORGANISM OF A PATIENT IN NEED
OF CORRECTING METABOLISM OF NITROGEN OXIDES (Amended)

PETITION UNDER 37 C.F.R. 1.47(b)

Commissioner for Patents
Washington, DC 20231

Sir:

This petition is in response to the Notification of Defective Response mailed July 11, 2002. The outstanding documents in this application are a Declaration of two of the six inventors of this application, namely inventor R. R. Rafikov and O. V. Rafikova. This petition is submitted under 35 C.F.R. 1.47(b) and the petition clearly shows that these two inventors refuse to sign; the two inventors were employees of the assignee and therefore the assignee owns the instant invention; that a copy of the application documents on file at the PTO was in front of the two inventors when they refused to sign; and that the enclosed Declarations clearly meet the provisions of Rule 47(b).

The following Declarations and supporting materials are submitted by persons having first hand knowledge:

1. A Declaration by Vladimir I. Biriulin, a partner and patent attorney of the firm in Moscow having responsibility for preparing and filing this patent application is attached.

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It will be seen from this Declaration the steps taken by Mr. Biriulin to try to have the two inventors sign the Patent Declaration.

- 1.1 Exhibit 1 shows that the assignee requested this invention be filed in the United States and attached is a copy of the U.S. Patent Declaration signed by four of the six inventors.
- 1.2 Exhibit 2 is a letter from the assignee showing that the assignee could not obtain the signature of the two inventors/employees as by that time they had left their employment but the assignee was able to locate the inventors at New York University Medical Center.
- 1.3 Exhibit 3 shows a letter from the Russian patent attorney to the two inventors at the New York Medical Center which letter clearly states what the enclosures are.
- 1.4 Exhibit 4 is a letter from the two inventors refusing to sign the Patent Declaration.
2. Exhibit 5 is a Declaration of the Deputy Director of the assignee, Glotov Boris Olegovich clearly explaining why the assignee owns the instant invention. It will be seen in paragraph 9 that according to Russian law the right to obtain a patent created by the company's employee, which patent is in connection with their employment, resides with the employer.
 - 2.1 Appendix 1 is the employment contracts numbers 49, 50 and 60 with the inventors.
 - 2.2 Appendix 2 is the application for filing this invention in Russia clearly showing the signatures of the two inventors.

2.3 Appendix 3 is a copy of PCT/RO/101 which is the request for the PCT application that is now being nationalized in the United States and again clearly showing the signature of the inventors.

2.4 Is a copy of the letter from the assignee to the Russian patent law firm to obtain the necessary documents from the inventors.

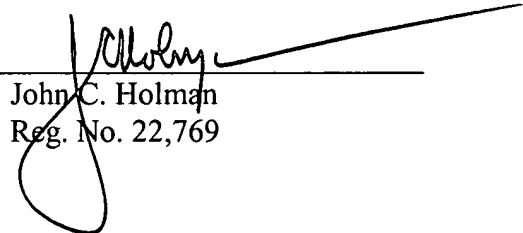
It is submitted that the enclosed documents, exhibits and appendices clearly show that the assignee is the *defacto* and *de jure* owner of this invention; two of the six inventors will not sign; and that every effort in accordance with Rule 47(b) has been made to have them sign without avail. Therefore, based on this evidence it is respectfully requested that this application continue under the provisions of Rule 47(b) and be passed forward to the examining branch for examination.

A check in the amount of \$720 for four months Extension of Time, small entity and \$130 for the petition fee is enclosed, however, should these checks become dislodged or should there be other fees required authorization is given to debit or credit undersigned counsel's deposit account 06-1358.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: _____


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